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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/667,894	09/22/2000	Larry Scheinberg	11847-002001	1229

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EXAMINER

HAVAN, THU THAO

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 03/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/667,894	<b>Applicant(s)</b> SCHEINBERG ET AL.	
	<b>Examiner</b> Thu Thao Havan	<b>Art Unit</b> 3624	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 January 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12,14 and 16-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12,14 and 16-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**Detailed Action**

***Response to Amendment***

Claims 1-12, 14, and 16-24 are pending. This action is in response to the RCE received January 18, 2006.

***Response to Arguments***

The rejection of claims 1-12, 14, and 16-24 under 35 U.S.C. 102(b) as being unpatentable over Mosler et al (US 6,304,858) is maintained.

Applicant's arguments filed January 18, 2006 and February 11, 2005 have been fully considered but they are not persuasive.

In response to the arguments concerning the previously rejected claims the following comments are made:

A.) Examiner notices that the remarks of January 18, 2006 are the same remarks Applicant previously discussed on February 11, 2005. Thus, Examiner already addressed the remarks on the previous office action of July 14, 2005. Again, the responses are as followed.

B.) In response to applicant's argument that the references fail to show an asset based margin protocol of applicant's invention, it is noted that the features upon which applicant relies (i.e., an asset based margin protocol) are just an "or" limitation for determining that a position calls for either a cash based margin protocol "or" an asset based margin protocol. As applicant admitted in page 7 of amendment of February 11, 2005, Mosler is directed solely to a method using a cash based margin protocol. Thus,

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Mosler only needs to meet one protocol to overcome the claim since only one protocol or the other protocol is required.

C.) Applicant alleges that the prior art made of record fails to teach determining that a position calls for either a cash based margin protocol or an asset based margin protocol. The examiner disagrees with applicant's representative since Mosler teaches determining that a position calls for either a cash based margin protocol or an asset based margin protocol (col. 4, lines 46-61, col. 12, lines 1-29, col. 30, lines 43-52). In other words, Mosler teaches determining that a position calls for either a cash based margin protocol when he discloses determining the model price of the cash settled contract at the close of trading in accordance with the pricing model (i.e. Protocol).

C.) Re claims 21-24, Mosler teaches an instruction as claimed in claims 1, 12, and 20. Therefore the rationale applied in the rejection of claims 1, 12, and 20 applies herein.

With regards to the claims rejected as anticipated over Mosler, the examiner would like to point out that the reference teaches the claimed limitations and thus provides adequate support for the claimed limitations. Therefore, the examiner maintains that Mosler anticipated the claimed limitations.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims **1-12, 14, and 16-24** are rejected under 35 U.S.C. 102(b) as being anticipated by Mosler et al. (US 6,304,858).

Re claims **1, 12, and 20**, Mosler teaches a method of clearing transactions on an electronic exchange comprises;

performing a settlement run after cessation of trading (fig. 5a (element S54 and S56));

automatically marking-to-market all open positions (col. 9, lines 19-38);

determining whether an open position calls for a cash based margin protocol or an asset based margin protocol (col. 12, lines 1-19; col. 30, lines 43-52); and determining margin requirements for the open position according to the determined margin protocol (col. 21, lines 55-60; col. 30, lines 43-52).

Re claims **2 and 14**, Mosler teaches sending to subscribers or subscriber depository or guaranteeing bnks debits and/or credits and updating the resulting balances in each subscriber's account (col. 4, lines 46-61; fig. 5a).

Re claims **3, 16, and 21**, Mosler teaches disseminating position information but no daily pays or collects will take place so long as sufficient assets are already identified (col. 12, lines 1-19; col. 21, lines 55-60; col. 30, lines 43-52).

Re claims **4, 17, and 22**, Mosler teaches posting a position for a subscriber to a subscriber trading account as soon as any portion of an order is filled (col. 9, line 59 to col. 10, line 18).

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Re claims **5, 18, and 23**, Mosler teaches determining whether the subscriber has a position at the other side of the market that can result in an offset of the position and the position at the other side of the market (col. 1, lines 37-49).

Re claims **6, 19, and 24**, Mosler teaches liquidating the trade with any resulting credit or debit identified as a realized gain or loss in the subscriber's trading account (fig. 5a).

Re claim **7**, Mosler teaches recording assets that are delivered to the exchange for satisfying margin (col. 12, lines 1-19; col. 21, lines 55-60; col. 30, lines 43-52).

Re claim **8**, Mosler teaches determining an equivalent asset value to reflect a capital charge applied to special classes of assets (abstract).

Re claim **9**, Mosler teaches maintaining an asset inventory for each trading account, and indicating whether assets in the trading account are limited to covering a single contract genus or a specific delivery commitment, or can be applied to multiple products (col. 4, lines 25-38).

Re claim **10**, Mosler teaches determining an initial margin for each contract species held in a subscriber's trading account (col. 21, lines 55-60; col. 30, lines 43-52).

Re claim **11**, Mosler teaches determining a variation margin and applying the variation margin to the subscriber's trading account (col. 12, lines 1-19).

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Thao Havan whose telephone number is (571) 272-8111. The examiner can normally be reached on Monday-Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct-uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

TTH  
3/16/2006



HANI M. KAZIMI  
PRIMARY EXAMINER